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McLellan 20

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EXAMINER

HERRERA, DIEGO D

ART UNIT

PAPER NUMBER

2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,575	Applicant(s) MCLELLAN, SCOTT W.	
	Examiner DIEGO HERRERA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/18/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-10, and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 2-3, 8-10, 13, and 16 are amended.

Claims 17-18 are new claims.

Claims 6-7, and 11-12 have been cancelled.

Response to Arguments

Applicant's arguments filed 12/18/2008 have been fully considered but they are not persuasive. In regards to claims 1-5, 8-10, and 13-18, the applicant's feature that there is no mobile service available activating Beacon that includes ID code selected from a serial number and a phone number of the mobile phone set reads on Linnett et al. (US 6771163 B2) as follows.

Linnett et al. discloses various embodiments as pointed out in fig. 5-7 and col. 10 lines: 34-56; col. 11 lines: 17--col. 12 lines: 3; col. 12 lines: 25-34; discloses a mobile handset device sending a distress signal to satellite transceiver, hence, wireless communication system for mobile handset device not available, the handheld mobile set has the circuitry to comply for such eventuality. The issue is that the mobile terminal beacon determines that the mobile handheld device is not in a cellular communication system, this doesn't necessarily mean that there is an emergency and procedures to be activated, the claims are not clear as to what really activates the beacon, therefore, Linnett et al. teaches having circuitry that when no available cellular or wireless network for voice or data is available that of satellite beacon signaling is used, hence, it is configured to be activated when emergency and when no cellular network is

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determined. Furthermore, the citation discloses that device transmits registration signal to emergency communications system which allows accessing information and even that of terminating beacon emergency signal by submitting of an emergency telephone number, inter alia, preprogrammed by user and other variables relevant to user emergency contacts and to emergency crews, the design choice is set by programs chosen by user, as mentioned the user can terminate beacon information by sending phone number in signal notifying emergency service organizations. Moreover, the citations discloses control module controls communication with external devices such as personal computers, even including, wireless interfaces or that of infrared interface, hence, the ability to store and relay information to nearby black box or for that matter any device with capability to receive information.

Therefore, Linnett et al. disclose all the limitations of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 8-10, and 15-16 rejected under 35 U.S.C. 102 (b) as being anticipated by Linnett et al. (US 6771163 B2).

Regarding claim 1. Linnett et al. discloses a mobile phone set (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising: a personal Locator beacon transmitter circuit which transmits a beacon that

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includes an identification code selected from a serial number and a phone number of the set (abstract, title, fig. 1-9, col. 3 lines: 52-57, col. 4 lines: 41-45, col. 11 lines: 24-30, 31-37, Linnett et al. teaches PLB that transmit information signal);_and a microprocessor coupled to the circuit and configured to activate the circuit only when there is no mobile phone service available and the mobile phone user requests emergency service (fig. 9, col. 12 lines: 42-47, Linnett et al. teaches mobile devices components including that of CPU).

Regarding claim 9. Linnett et al. discloses a method of requesting emergency service on a mobile phone handset (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising the steps of: determining if mobile service is available (col. 4 lines: 38-45, col. 6 lines: 30-38, col. 11 lines: 24-30, 31-37, Linnett et al. teaches determining means for use of wireless network communication and/or satellite communication system):

if such service is unavailable, then transmitting, using a personal locator beacon transmitter circuit of the mobile phone handset, a beacon that includes an identification code selected from a serial number and a phone number of the handset (abstract, title, fig. 1-9, col. 3 lines: 52-57, col. 4 lines: 41-45, col. 11 lines: 24-30, 31-37, Linnett et al. teaches PLB that transmit information signal with GPS information and information regarding user's subscription so that server can be access with more detailed information about subscriber, hence, providing identification that is concordance with mobile device).

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Consider claim 2. A phone set according to claim 1, further comprising a global positioning system receiver circuit coupled to the microprocessor, the microprocessor further configured to include location coordinates from the global positioning system receiver circuit with the beacon transmitted by the personal Locator circuit (fig. 9, title, abstract, col. 1 lines: 5-17, col. 11 lines: 31-64, Linnett et al. teaches GPS location coordinates sending with the PLB, personal location beacon, through means of a processor unit when in a remote area).

Consider claim 5. A phone set according to claim 4, further comprising a microphone coupled to the personal Locator beacon transmitter circuit such that the homing signal includes voice transmission (col. 11 lines: 31-64, col. 11 lines: 65--col. 12 lines: 3, Linnett et al. teaches SAR receiving information such as voice recording of subscriber and with other pertinent data as to the emergency or special considerations).

Consider claim 8. A phone set according to claim 1, further comprising a short range transceiver coupled to the personal Locator beacon transmitter circuit and the microprocessor such that the beacon includes emergency information received from the short range transceiver (fig. 9, col. 12 lines: 27-33, Linnett et al. teaches control module controlling communication with external devices such as personal computer via interfaces, wired or wireless or infrared, hence, short-range).

Consider claim 10. The method according to claim 9, further comprising obtaining global positioning system location coordinates, wherein the beacon includes said global positioning system location coordinates (fig. 9, title, abstract, col. 1 lines: 5-17, col. 11

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lines: 31-64, Linnett et al. teaches GPS location coordinates with the PLB, personal location beacon).

Consider claim 15. The method according to claim 14, wherein voice transmission is included with the homing signal (col. 11 lines: 31-64, col. 11 lines: 65--col. 12 lines: 3, Linnett et al. teaches SAR receiving information such as voice recording of subscriber and with other pertinent data as to the emergency or special considerations).

Consider claim 16. The method according to claim 9, further comprising receiving emergency information from a short range transceiver located in the handset, wherein the beacon includes the received emergency information (fig. 9, col. 12 lines: 27-33, Linnett et al. teaches control module controlling communication with external devices such as personal computer via interfaces, wired or wireless or infrared, hence, short-range).

Consider claim 17. The method according to claim 16, wherein:

the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box (fig. 17, col. 12, lines: 27-33, 59-62).

Consider claim 18. A phone set according to claim 8, wherein:

the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box (fig. 17, col. 12, lines: 27-33, 59-62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linnett et al. (US 6771163 B2), and further in view of Street (US 6992623 B2).

Consider claim 3. A phone set according to claim 1, However, Linnet et al. does not specifically discloses wherein the personal Locator beacon circuit transmits a beacon at a frequency of approximately 406 MHz, nevertheless, Street does address the limitation of a radio frequency approximately 406 MHz (title, abstract, fig. 1, col. 2 lines: 19-59, col. 3 lines: 43-48, 51-53, 56-61,65--co1.4 lines: 2, Street teaches using a beacon. transmitting in approximately 406 MHz and is related to emergency locating beacon with an in-band homing transmitter). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the thresholds of the radio frequency of 406 MHz and only approximating around that, as

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taught by Street for purposes of, or motivated by reducing cost and complexity to the beacon (col. 1 lines: 47-48).

Consider claim 13. The method according to claim 9, However, Linnet et al. does not specifically discloses wherein the transmitter circuit transmits a beacon at a frequency of approximately 406 MHz, nevertheless, Street does address the limitation of a radio frequency approximately 406 MHz (title, abstract, fig. 1, col. 2 lines: 19-59, col. 3 lines: 43-48, 51-53, 56-61, 65--col. 4 lines: 2, Street teaches using a beacon transmitting in approximately 406 MHz and is related to emergency locating beacon with an in-band homing transmitter). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the thresholds of the radio frequency of 406 MHz and only approximating around that, as taught by Street for purposes of, or motivated by reducing cost and complexity to the beacon (col. 1 lines: 47-48).

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linnett et al. (US 6771163 B2), and further in view of Holmes et al. (US 7162395 B1).

Consider claim 4. A phone set according to claim 3, However, Linnet et al. does not specifically discloses wherein the personal Locator beacon circuit also transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20-34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio

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frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known frequency signals for distress alert and location data to assist search and rescue operations emitted by distress beacons). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies (col. 1 lines: 26-34, col. 3 lines: 20-53).

Consider claim 14. The method according to claim 9, Linnet et al. does not specifically discloses wherein the transmitter circuit transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz ; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20-34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known frequency signals for distress alert and location data to assist search and rescue operations emitted by distress beacons). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies (col. 1 lines: 26-34, col. 3 lines: 20-53).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Diego Herrera/
Examiner, Art Unit 2617